

**REMARKS/ARGUMENTS**

Bennington (United States Patent No. 3,958,571) discloses a swab applicator which comprises an elongated hollow tube open at one end, normally closed at the opposite end, and containing a solution. A swab of absorbent material is secured around the open end, and the opposite end is provided with means to open the end to permit the solution to flow by gravity into the swab. In one embodiment, the opening means is a “declevity” which allows the tube to be easily broken at the “declevity.”

Applicant’s invention is an applicator comprising a hollow elongated tubular handle with a sealed end and an open end. An applicator tip is affixed to one end of the hollow elongated tubular handle. No liquid is enclosed in the hollow elongated tubular handle. In addition, no opening means is provided in the elected species. The applicator may be used to apply small quantity of liquid without absorption and retention of excess amount of the liquid into the hollow elongated tubular handle through the open end by placing the applicator tip in contact with a liquid. In the nonelected species of applicant’s invention, an opening means in the form of a score line is provided. Since in the examiner’s election/restrictions requirement in the first office action of June 23, 2005, the examiner deemed the nonelected species “patentably distinct species of the claimed invention,” the elected species is therefore “patentably distinct” from Bennington.

Applicant hereby submits that the claim rejections under 35 U.S.C. §102(b) have all been overcome. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Application No.: 10/657,682  
Amendment dated: February 24, 2006  
Reply to Office Action of: August 25, 2005

Respectfully submitted,

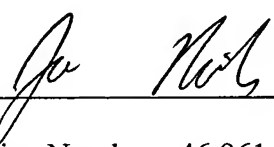
A handwritten signature in dark ink, appearing to read 'Joe Nieh', is written over a horizontal line.

Joe Nieh  
Registration Number: 46,961  
18760 E. Amar Road, #204  
Walnut, CA 91789  
Tel: (626) 964-4227  
Fax: (626) 854-5717  
E-Mail: [nieh@justice.com](mailto:nieh@justice.com)

Application No.: 10/657,682  
Amendment dated: February 24, 2006  
Reply to Office Action of: August 25, 2005

**Certificate of Mailing:** I certify that on the date below this document and referenced attachments, if any, will be deposited with the U.S. Postal Service by 1<sup>st</sup> Class Mail in an envelope addressed to: "Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450."

February 24, 2006

  
\_\_\_\_\_  
Joe Nieh  
Registration Number: 46,961  
18760 E. Amar Road, #204  
Walnut, CA 91789  
Tel: (626) 964-4227  
Fax: (626) 854-5717  
E-Mail: [nieh@justice.com](mailto:nieh@justice.com)